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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,176	09/04/2001	Donald Sidney Merrill		3235

7590 04/09/2007  
Donald Sidney Merrill  
Apartment 41  
294 Rio Lindo Ave.  
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EXAMINER

JUNG, DAVID YIUK

ART UNIT	PAPER NUMBER
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2134

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/945,176	<b>Applicant(s)</b> MERRILL, DONALD SIDNEY	
	<b>Examiner</b> David Y. Jung	<b>Art Unit</b> 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### CLAIMS PRESENTED

Claims 1-3 are presented.

### CLAIM REJECTIONS

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims fail to point out what is included or excluded by the claim language; these claims omnibus type claims.

Claim 1: [new] The Electronic Facilitation Venue (EFV) is a single integrated system with a collection of disparate elements: Information Management system designed and programmed for Data Mining, Dynamic User Processor Pool where processors can be allocated to users as needed, File and Directory Servers, and a Distributed Operating System (DOS) designed to make these element work together.

The claim recites "a single integrated system with a collection of disparate systems." What does "disparate" mean in this context of "integrated"? Applicant may be referring to "off-the-shelf equipment that would meet our needs" that was mentioned

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in Remarks section. This is not clear. The claim fails to point out what is included or excluded.

Claim 2: [new] The Architecture of the EFV DOS is [Microkernel + Server] where every machine element of the EFV is controlled by a small identical program [Kernel] supporting communication, object primitives, device I/O and memory management; built on top of these fundamentals is a collection of independent [user-space] processes running application programs.

Does this claim include all elements of claim 1?

Claim 3: [new] The machine elements of the EFV consist of a System Host, Database Server and Multi-Media Data Warehouse, Slim Client Servers, tied together by an Ethernet Backbone.

Does this claim include all elements of claim 1 or include all elements of claim 2?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by <http://www.acm.org/sigs/sigkdd/explorations/issues/2-1-2000-06/sarawagi.pdf> (Data mining models as services on the internet) -- hereinafter also referred as "Sarawagi."

Claim 1: [new] The Electronic Facilitation Venue (EFV) is a single integrated system with a collection of disparate elements: Information Management system designed and programmed for Data Mining, (section 1. Introduction, especially the second paragraph, i.e., the various data mining designed for the internet)

Dynamic User Processor Pool where processors can be allocated to users as needed, File and Directory Servers, and a Distributed Operating System (DOS) designed to make these element work together (section 1. Introduction, especially the second paragraph, i.e., the various data mining designed for the internet – because the enterprise systems for the internet do use such processors, directory service, operating system, etc.) .

Claim 2: [new] The Architecture of the EFV DOS is [Microkernel + Server] where every machine element of the EFV is controlled by a small identical program [Kernel] supporting communication, object primitives, device I/O and memory management; built on top of these fundamentals is a collection of independent [user-space] processes running application programs. (section 1. Introduction, especially the second paragraph, i.e., the various data mining designed for the internet – because the enterprise systems

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for the internet do use computers with such operating system features, etc.) .

Claim 3: [new] The machine elements of the EFV consist of a System Host, Database Server and Multi-Media Data Warehouse, Slim Client Servers, tied together by an Ethernet Backbone. (section 1. Introduction, especially the second paragraph, i.e., the various data mining designed for the internet – because the enterprise systems for the internet do use such servers, warehouse, ethernet, etc.) .

### ***Conclusion***

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

### ***Points of Contact***

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

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(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Kambiz Zand whose telephone number is (272) 272-3811.

David Jung

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Patent Examiner

3/31/07

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a wavy line that tapers off to the right.